

Senate File 2105

AN ACT

RELATING TO VARIOUS MATTERS INVOLVING INSURANCE AND THE
INSURANCE DIVISION OF THE DEPARTMENT OF COMMERCE AND
INCLUDING APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

MISCELLANEOUS PROVISIONS

Section 1. Section 97B.49B, subsection 1, paragraph e, Code 2014, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (13) An employee of the insurance division of the department of commerce who as a condition of employment is required to be certified by the Iowa law enforcement academy and who is required to perform the duties of a peace officer as provided in section 507E.8.

Sec. 2. Section 502.409, subsection 1, Code 2014, is amended to read as follows:

1. *Withdrawal of registration.* Withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective sixty days after the filing of the application to withdraw or within any shorter

period as provided by rule adopted or order issued under this chapter unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective when and upon such conditions as required by rule adopted or order issued under this chapter. The administrator may institute a disciplinary action under section 502.412, including an action to revoke, suspend, condition, or limit the registration of a registrant, censure, impose a bar, or impose a civil penalty, within ~~one year~~ two years after the withdrawal became effective automatically and issue a disciplinary order as of the last date on which registration was effective if a proceeding is not pending.

Sec. 3. Section 511.8, subsection 8, paragraph d, Code 2014, is amended to read as follows:

d. In addition to the restrictions contained in paragraphs "a" and "b", the investments of any company or association in securities included under subsection 5, paragraph "c", are not eligible in excess of ~~two~~ three percent of the legal reserve, but not more than ~~one-eighth~~ one-half of one percent of the legal reserve shall be invested in the securities of any one corporation.

Sec. 4. Section 511.8, subsection 22, paragraph i, Code 2014, is amended to read as follows:

i. Securities held in the legal reserve of a life insurance company or association pledged as collateral for financial instruments used in ~~highly effective~~ hedging transactions ~~as defined in the national association of insurance commissioners' statement of statutory accounting principles no. 86~~ shall continue to be eligible for inclusion in the legal reserve of the life insurance company or association subject to all of the following:

(1) The life insurance company or association does not include the financial instruments used in ~~highly effective~~ hedging transactions for which the securities are pledged as collateral in the legal reserve of the life insurance company or association, provided, however, that this subparagraph shall not exclude securities pledged to a counterparty, clearing organization, or clearinghouse on an upfront basis in the form of initial margin, independent amount, or other securities pledged as a precondition of entering into financial instruments used in ~~highly effective~~ hedging transactions from inclusion in the legal reserve of the life insurance company or association.

(2) Securities pledged as collateral for financial instruments used in highly effective hedging transactions as defined in the national association of insurance commissioners' statement of statutory accounting principles no. 86, together with securities pledged to a counterparty, clearing organization, or clearinghouse on an upfront basis in the form of initial margin, independent amount, or other securities pledged as a precondition of entering into ~~financial instruments used in~~ highly effective hedging transactions pursuant to subparagraph (1), are not eligible in excess of ten percent of the legal reserve of the life insurance company or association, less any financial instruments used in hedging transactions held in the legal reserve under this subsection and less any securities included under subparagraph (3).

(3) Securities pledged as collateral for financial instruments used in hedging transactions that the life insurance company or association does not report as highly effective hedging transactions, together with securities pledged to a counterparty, clearing organization, or clearinghouse on an upfront basis in the form of initial margin, independent amount, or other securities pledged as a precondition of entering into hedging transactions that the life insurance company or association does not report as highly effective hedging transactions pursuant to subparagraph (1), are not eligible in excess of three percent of the legal reserve of the life insurance company or association, less any financial instruments used in hedging transactions held in the legal reserve under this subsection.

DIVISION II

ELECTRONIC POSTING AND TRANSMISSION OF INSURANCE NOTICES AND DOCUMENTS

Sec. 5. NEW SECTION. 505B.1 Notices and documents delivered by electronic means.

1. As used in this chapter, unless the context otherwise requires:

a. *"Delivered by electronic means"* means any of the following:

(1) Delivery to an electronic mail address at which a party has consented to receive notices or documents.

(2) Posting on an electronic network or site accessible via the internet, a mobile application, computer, mobile device, tablet, or any other electronic device, together with separate notice of the posting which shall be provided by electronic

mail to the address at which the party has consented to receive notice or by any other delivery method that has been consented to by the party.

b. "Party" means a recipient of a notice or document required as part of an insurance transaction including but not limited to an applicant, an insured, a policyholder, or an annuity contract holder.

2. Subject to subsection 4, any notice to a party or any other document required under applicable law in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored, or presented by electronic means so long as the notice or document meets the requirements of chapter 554D.

3. Delivery of a notice or document in accordance with this section shall be considered equivalent to any delivery method required under applicable law, including delivery by first class mail; first class mail, postage prepaid; certified mail; certificate of mail; or certificate of mailing.

4. A notice or document may be delivered by electronic means by an insurer to a party under this section if all of the following occur:

a. The party has affirmatively consented to such method of delivery and has not withdrawn the consent.

b. The party, before giving consent, is provided with a clear and conspicuous statement informing the party of the following:

(1) Any right or option of the party to have the notice or document provided or made available in paper or another nonelectronic form.

(2) The right of the party to withdraw consent to have a notice or document delivered by electronic means and any fees, conditions, or consequences imposed in the event consent is withdrawn.

(3) Whether the party's consent applies as follows:

(a) Only to the particular transaction as to which the notice or document must be provided.

(b) To identified categories of notices or documents that may be delivered by electronic means during the course of the parties' relationship.

(4) (a) The means, after consent is given, by which a party may obtain a paper copy of a notice or document delivered by electronic means.

(b) The fee, if any, for the paper copy.

(5) The procedure a party must follow to withdraw consent to have a notice or document delivered by electronic means and to update information needed to contact the party electronically.

c. Both of the following occur:

(1) Before giving consent, the party is provided with a statement of the hardware and software requirements for access to and retention of a notice or document delivered by electronic means.

(2) The party consents electronically, or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for notices or documents delivered by electronic means as to which the party has given consent.

d. After consent of the party is given, the insurer, in the event a change in the hardware or software requirements needed to access or retain a notice or document delivered by electronic means creates a material risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies, does the following:

(1) Provides the party with a statement of the following:

(a) The revised hardware and software requirements for access to and retention of a notice or document delivered by electronic means.

(b) The right of the party to withdraw consent without the imposition of any fee, condition, or consequence that was not disclosed under paragraph "b", subparagraph (2).

(2) Complies with paragraph "b".

5. This section does not affect requirements related to content or timing of any notice or document required under applicable law.

6. If a provision of this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.

7. The legal effectiveness, validity, or enforceability of any contract or policy of insurance executed by a party shall not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party in accordance with subsection 4, paragraph "c", subparagraph (2).

8. *a.* A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a

notice or document delivered by electronic means to the party before the withdrawal of consent is effective.

b. A withdrawal of consent by a party is effective within a reasonable period of time after receipt of the withdrawal by the insurer.

c. Failure by an insurer to comply with subsection 4, paragraph "d", may be treated, at the election of the party, as a withdrawal of consent for purposes of this section.

9. This section does not apply to a notice or document delivered by an insurer in an electronic form before the effective date of this Act to a party who, before that date, has consented to receive a notice or document in an electronic form otherwise allowed by law.

10. If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before the effective date of this Act, and pursuant to this section an insurer intends to deliver additional notices or documents to such party in an electronic form, then prior to delivering such additional notices or documents electronically, the insurer shall notify the party of the following:

a. The notices or documents that may be delivered by electronic means under this section that were not previously delivered electronically.

b. The party's right to withdraw consent to have notices or documents delivered by electronic means.

11. *a.* Except as otherwise provided by law, if an oral communication or a recording of an oral communication from a party can be reliably stored and reproduced by an insurer, the oral communication or recording may qualify as a notice or document delivered by electronic means for purposes of this section.

b. If a provision of this title or applicable law requires a signature or notice or document to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by the provision, is attached to or logically associated with the signature, notice, or document.

12. This section shall not be construed to modify, limit, or supersede the provisions of the federal Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), codified at 15 U.S.C. §7001 et seq., as amended.

Sec. 6. NEW SECTION. 505B.2 Posting of policies on the internet.

Notwithstanding any contrary provision of chapter 554D, an insurer may mail, deliver, or post on the insurer's internet site insurance documents, including policies, riders, endorsements, and annuity contracts that do not contain personally identifiable information. If the insurer elects to post an insurance policy or endorsement on the insurer's internet site in lieu of mailing or delivering the policy or endorsement to the insured, the insurer must comply with all of the following conditions:

1. The policy or endorsement must be accessible and remain accessible for as long as the policy or endorsement is in force.
2. After the expiration of the policy or endorsement, the insurer must archive the expired policy or endorsement for a period of five years, and make the policy or endorsement available upon request.
3. The policy or endorsement must be posted in a manner that enables the insured to print and save the policy or endorsement using programs and applications that are widely available on the internet and free to use.
4. The insurer must provide the following information in, or simultaneously with, each declarations page provided at the time of issuance of the initial policy and any renewal of that policy:
 - a. A description of the exact policy or endorsement purchased by the insured.
 - b. A method by which the insured may obtain, upon request and without charge, a paper copy of the insured's policy or endorsement.
 - c. An internet address where the insured's policy or endorsement is posted.
5. The insurer must provide notice, in the format preferred by the insured, of any changes to the policy or endorsement, the insured's right to obtain, upon request and without charge, a paper copy of such policy or endorsement, and the internet address where such policy or endorsement is posted.

Sec. 7. NEW SECTION. 505B.3 Applicability.

The provisions of this chapter shall apply to the insurance products and documents, including insurance policies, insurance riders, insurance endorsements, and annuity contracts filed with and regulated by the commissioner of insurance under the

authority provided to the commissioner by Title XIII, subtitle 1.

PAM JOCHUM
President of the Senate

KRAIG PAULSEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2105, Eighty-fifth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2014

TERRY E. BRANSTAD
Governor